

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Crl. Revision No. 673 of 2007

Date of Decision : 19.04.2007

Gurcharan Singh

.... Petitioner

Versus

State of Punjab

.... Respondent

CORAM : HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. D.R. Singla, Advocate,
for the petitioner.

S.D. Anand, J.

The petitioner was convicted by the learned Judicial Magistrate First Class, Barnala (vide judgment dated 13.05.2004) for an offence under Section 304-A of the Indian Penal Code and was directed to undergo rigorous imprisonment for a period of 1-1/2 years and to pay a fine of Rs.2000/-. In default of payment of fine, the petitioner was to undergo further rigorous imprisonment for a period of two months. The petitioner preferred an appeal to the Court of Sessions, which affirmed the finding of the learned Trial Court. The petitioner is in revision.

Learned counsel for the petitioner argues that there is no evidence whatsoever on the file to prove the identity of the petitioner as the driver of the offending vehicle. It was argued, in the context, that the first informant was not familiar with the identity of the petitioner at an earlier point of time and no test identification parade had been held to establish the

identity of the petitioner as the driver of the offending vehicle.

The plea raised is completely devoid of merit. The offending vehicle was left by the petitioner at the spot itself. It is conceded before this Court by the learned counsel for the petitioner that it is the petitioner only who is the registered owner of the offending vehicle. No explanation whatsoever has been offered by the petitioner about how that vehicle came to be at the spot and was taken into possession from the spot itself immediately after the impugned accident, if it had not actually been involved in the impugned accident.

It also cannot be lost sight of that the first informant, who happens to be real son of the deceased, would not be interested in letting the real culprit get away and to falsely implicate the petitioner. In the natural course of things, such a close relation would be interested in ensuring that the real culprit is brought to book at any cost.

The non-holding of test identification parade is legally insignificant in the facts and circumstances of the case. The petitioner was identified by the first informant at the spot itself as the driver of the offending vehicle. It may be noticed that, in the course of the statement under Section 313 Cr.P.C., the petitioner had raised a plea that the impugned accident had been caused by an unidentified vehicle and that the impugned accident had been witnessed by one Makhan Singh son of Basant Singh. If the petitioner was not present at the spot, there is no understandable reason how he would have obtained information about which vehicle had caused the impugned accident and that the accident had been witnessed by an indicated individual who, interestingly enough, was not also examined as a defence witness.

The learned Trial Magistrate and also the learned Additional Sessions Judge, noticed and dealt with all the pleas raised by the petitioner at the trial. The finding of indictment of the petitioner as recorded by them is relatable to the material obtaining on the file. The impugned judgment does not suffer from any invalidity or infirmity. This revision petition is held to be devoid of merit and is ordered to be dismissed.

April 19, 2007
vkd

(S.D. Anand)
Judge